

## Court Decisions

### Property Taxes

#### California Supreme Court Decision

**“Change in ownership” occurred when the entire equitable estate in the property was transferred upon the settlor’s death.**

By the terms of the trust, the entire fee interest in the property was transferred to the plaintiff and other beneficiaries upon the settlor’s death. The California Supreme Court held that a “change in ownership” occurred within the meaning of California Constitution article XIII A, section 2, subdivision (a) because the entire equitable estate in the property, which included a life estate, was transferred. The settlor, as the sole beneficial owner of the residence before her death, retained no interest in the residence after her death.

*Steinhart v. County of Los Angeles (2010) 47 Cal.4th 1298.*

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#### California Court of Appeal Decisions

**The taxpayer is entitled to the presumption of correctness under Revenue and Taxation Code section 167, subdivision (a)**

The Court of Appeal held that the county’s assessment appeals board failed to accord the taxpayer the presumption of correctness to which he was entitled under Revenue and Taxation Code section 167, subdivision (a). The assessor was not entitled to the presumption of correctness and had the burden of overcoming the presumption favoring the taxpayer by a preponderance of the evidence.

*Farr v. County of Nevada (2010) 187 Cal.App.4th 669.*

**The transfer of a deceased beneficiary’s interest to his children was an assessable change in ownership**

A beneficiary’s interest in a trust’s income was transferred to his children upon his death as the terms of the trust provided. Prior to his death, the decedent had a present interest in the improvements, and retained the beneficial use of the property. The Court of Appeal held that the transfer of the deceased beneficiary’s interest to his children was a change in ownership under California Constitution article XIII A and Revenue and Taxation Code section 60.

*Phelps v. Orange County Assessment Appeals Bd. No. 1 (2010) 187 Cal.App.4th 653.*

**The requirements for homeowner’s property exemption and base year value transfer**

Under Revenue and Taxation Code sections 218 and 69.5, in order to transfer the tax basis of a former residence to a replacement residence, the former residence must be the principal residence of a person over the age of 55 years who was the owner of record at the time of the sale of original property. Here, however, the individual transferred the former residence to his wholly owned corporation before it was sold. Consequently, the Court of Appeal held that the individual did not qualify for either the homeowner’s exemption or a base year value transfer. The individual had to accept the tax consequences of this choice to transfer to a corporation whether or not such consequences were contemplated.

*Grotenhuis v. County of Santa Barbara (2010) 182 Cal.App.4th 1158.*

**Private use of otherwise tax-exempt public property may be taxed if such use constitutes a taxable possessory interest**

The Court of Appeal held that a rental car company had possession of a leasehold estate because it had sufficient authority and control over the common areas to establish independence under Revenue and Taxation Code section 107, subdivision (a)(1). Also, exclusivity under section 107, subdivision (a)(3) was not defeated by the other tenants' similar rights to use the property because the company had beneficial rights in the common areas that the general public did not share.

*Vanguard Car Rental USA, Inc. v. County of San Mateo* (2010) 181 Cal.App.4th 1316.

**The county correctly assessed land and improvements separately in determining the full value of the property**

The Court of Appeal upheld an assessment appeals board's decision when challenged on the ground that it had failed to assess land and improvements separately, holding that the Board had properly valued the property and properly relied upon Revenue and Taxation Code section 1610.8 and Regulation 324, subdivision (a).

*Schoenberg v. County of Los Angeles Assessment Appeals Board* (2009) 179 Cal.App.4th 1347.

**Valuation of the replacement dwelling under Revenue and Taxation Code section 69.5, subdivision (g)(5)**

Proposition 60 grants tax relief that allows qualified homeowners to transfer the adjusted property tax basis of their principal residence to a replacement dwelling of equal or lesser value. Under Revenue and Taxation Code section 69.5, subdivision (g)(5), the replacement dwelling—including both land and structure—must be valued as of a single date, either the date that the property was purchased or the date that construction of the structure was completed, whichever is later.

*Wunderlich v. County of Santa Cruz* (2009) 178 Cal.App.4th 680.

**A transfer of real property from a corporation to a limited liability company is a 100 percent change in ownership**

Revenue and Taxation Code section 61, subdivision (j) establishes that the transfer of real property from a corporation to a limited liability company is a change in ownership. Here, the Court of Appeal concluded that the corporation did not retain a beneficial interest in the mall despite receiving an economic benefit as a member of the parent company. Thus, a 100 percent change in ownership occurred as a result of the transaction.

*Fashion Valley Mall, LLC v. County of San Diego* (2009) 176 Cal.App.4th 871.

**Sales and Use Tax**

There were no court decisions published in 2009-10 for sales and use tax cases.